

CONNECTICUT
MUNICIPAL ELECTRIC
ENERGY COOPERATIVE



30 Stott Avenue
Norwich, CT 06360-1526
860-889-4088 Fax 860-889-8158

May 6, 1997

The Honorable John D. Dingell, Ranking Member
Commerce Committee Democratic Office
564 Ford House Office Building
U. S. House of Representatives
Washington, DC 20515

Dear Representative Dingell:

The following comments are in response to your letter of April 10, 1997. I applaud your effort to solicit first hand information from the public power sector of the electric utility industry.

The Connecticut Municipal Electric Energy Cooperative (CMEEC) is a joint action agency formed and owned by the Connecticut municipal utilities. Its primary purpose is to provide low cost and reliable electric service to the municipal electric utilities in the state of Connecticut. CMEEC supplies the electric power requirements of all six of the state's municipal utilities as well as providing the electric power needs of one municipal utility in Massachusetts, one other utility in Connecticut and a tribal utility authority in Connecticut. Listed below are the names of the utilities we supply:

City of Groton Department of Utilities
Jewett City Department of Public Utilities
Norwalk Third Taxing District Electrical Department
South Norwalk Electric Works
City of Norwich Department of Public Utilities
City of Chicopee Massachusetts Municipal Lighting Plant
Town of Wallingford Department of Public Utilities
Mohegan Tribal Utility Authority

I trust the attached answers will be responsive to your questions.

Very truly yours,

CONNECTICUT MUNICIPAL ELECTRIC
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A handwritten signature in dark ink, appearing to read "Maurice R. Scully", is written over the printed name and title.

Maurice R. Scully
Executive Director

Serving Public Power in Connecticut

City of Groton
Department of Utilities

City of Norwich
Department of Public Utilities

Jewett City
Electric Light Plant

Norwalk Third Taxing District
Electrical Department

South Norwalk
Electric Works

Town of Wallingford
Department of Public Utilities

CMEEC Responses to Representative Dingell's Questions

- 1) *What are your biggest concerns about retail competition? If retail competition has been adopted by the state(s) you serve, or is under active consideration, what position have you taken and why?*

In 1995 the legislative body of the State of Connecticut authorized a broad-based Task Force to study the impacts of retail competition and ways to achieve the state's goal of reducing electric costs. Legislation to allow retail competition within Connecticut has been drafted and is being deliberated in the 1997 legislative session. The municipal utilities have participated in both the Task Force study and the legislative debate.

Our position is simple. The municipals support the state's goal of reducing electric costs. We support the concept of competition and retail choice if implemented properly.

Specifically the position of Connecticut's municipals is that community-owned electric systems have obtained legal authorization and foundation by legislation, either special or general, as enacted by the General Assembly. The key element of the legislation is that voters of the respective Connecticut municipalities were granted the right to authorize acquisition and maintenance of a respective municipal electric system. These rights were fully exercised by the voters. Therefore the enactment of any statute to enable a supplier to service customers of a municipal electric system without explicit approval by citizens

of the municipality would be inconsistent with the statutory policy foundation which created municipal electric utilities in Connecticut.

Municipal electric systems would be encouraged to participate in utility industry restructuring ultimately, however, a community-owned municipal electric utility must decide whether to participate in retail choice options. A municipality choosing non-participation in retail choice options will continue to deliver electricity to its municipal customers, much as it does today. If a municipality decides to participate in municipal retail choice, it would be allowed to sell at retail outside of its currently authorized territory. The municipal utility would be reciprocally required to allow its current customers to choose suppliers in a manner comparable to other customers in the state with retail access. The participating municipal utility would also be required to comply with the rules instituted for all other market participants with respect to affiliate transactions and anticompetitive behavior for those sales outside its authorized territory. The governing bodies of the municipalities would continue to oversee, direct, and control the community-owned electric system and its sales within its authorized territory.

In addition, the municipal utilities are strong proponents of the position that retail competition, be it through phase-in or through a pilot program, should ensure that all electric consumers, residential and commercial, as well as large business and industrial consumers, will benefit from increased competition.

With regard to concerns about retail competition, the municipal electric utilities developed the position included in the final Task Force Report on the mitigation of undue market power. We believe that in striving for a competitive market in electricity, Connecticut should ensure that certain impediments to competition such as artificial barriers to entry and abuse of market power, are removed to the fullest extent possible. Industry restructuring will require both the evolution of existing regional power entities and the creation of new entities and regulations to address concerns associated with market behavior. We further believe that the adequacy of existing antitrust and consumer-protection laws must be reviewed to ensure that abuses be prevented. To the extent such abuses occur, they must be adequately remedied in a timely fashion.

Control of strategic electric generation resources and the potential for horizontal market power are items that must be satisfactorily addressed in any restructured industry. Any new market operations structure for the purchase and sale of generation products and services also must be considered. Such issues will likely be reviewed in the context of a large regional market area. However, market power can also be abused in smaller geographic markets. If sufficient transmission access is not available to supply a large portion of the electric generation requirements within a defined local service area, a wholesale supplier would be exercising substantial unfair market power within a limited geographic area, even if there is found to be no market power when measured more regionally. This situation could occur in portions of Connecticut, regardless of generation ownership or divestiture.

2) Do you believe Congress should enact legislation mandating retail competition by a date certain and why or why not?

No. Currently forty-seven (47) states have efforts under way to study or implement retail competition. State and local authorities are best able to determine whether or not retail access policies should be implemented for their areas, economically and politically. They are the ones who best understand the economic characteristics, history, and trends in their jurisdictions that define the impacts of change. Congress should respect the fact that most states in the nation are moving forward in this area. It should continue to acknowledge the historical authority and basis for many state and local governments to exercise control over retail electricity transactions.

3) Some privately owned utilities assert that public power enjoys a broad range of tax-related and other advantages which independently owned utilities (IOU) do not, and that these would unfairly benefit public power in a competitive retail marketplace. Do you agree? Do IOU's enjoy any benefits public power does not?

For public power systems of Connecticut there is absolutely no merit to the argument that tax related advantages are the basis for our lower costs. The Connecticut Energy Task Force studied in detail the cost components of all the state's utilities. Municipal electric rates on average are 20-30% below those of investor-owned utilities in Connecticut. The main reasons for the lower municipal rates are: 1) the returns earned by municipals are much smaller than returns of the investor-owned utilities, and 2) the

overall municipal power supply mix and generation resources and the distribution services are more efficiently structured and managed to meet specific load characteristics of our customer mix. In our case, the municipal utilities actually pay significant taxes. The municipal utilities in Connecticut directly and indirectly paid, on average, over 12 ½% of their total retail revenues in federal and state taxes. In part, these taxes were paid to investor-owned utilities for power the municipals purchased and sold at retail.

Investor-owned utilities do enjoy certain advantages not enjoyed by the municipals. The municipals have little or no equity. This results in the necessity for capital improvements to be financed from operating revenues or from the long-term tax-exempt debt market. Investor-owned utilities have enjoyed much more flexibility in accessing monies for capital improvements.

In another area, it is often overlooked that the municipal utilities must comply with freedom of information requirements such as sunshine laws and public meeting statutes. This deters municipals as they operate in a competitive environment. All contracts, costs and strategic plans of the municipal utilities become public information. Conversely investor-owned utilities aggressively protect the confidentiality of similar information.

In a competitive utility environment the use of individual customer contracts will become more common as a preferred vehicle to sell power to larger commercial and industrial customers. For municipal utilities, tax-exempt bonds, as the primary financing vehicle

for capital acquisitions and improvements, carry numerous restrictions on the allowed amount of “private use.” “Special” individual municipal contracts with large commercial and industrial customers in their service territories have historically been deemed to be “private use” unless special contracts are offered generally to all other customers. Consequently if municipalities don’t want to jeopardize the tax-exempt status of outstanding bonds, these special contracts have to be limited under very complicated and onerous tax rules.

These are some of the considerations and requirements that both constrain and define public power as part of state and local government versus a private corporation.

4. If Congress were to mandate retail competition, please provide any recommendations you have with respect to the following issues.

a) **Stranded investment**: How should IOUs stranded investment be treated?

Does your company face anything similar and, if so, how should it be treated?

At the wholesale level we believe that a significant number of transactions are undertaken via defined contractual arrangements. Those contractual arrangements and the provisions of the contracts should prevail as the basis for recovery of costs.

Generally these contracts do not provide for payment of any costs beyond the term of the contract.

At the retail level however, recovery of such costs (including those incurred by the retail entity's wholesale supplier) may be appropriate if retail competition is established. This is justified by traditional obligation to acquire electric resources necessary to serve every customer in the utility's service territory. However, the facts and circumstances appropriate to the recovery of "stranded costs" can only be considered by the local and state authorities and regulators charged with such responsibilities.

We strongly believe that recovery of these "stranded costs" must be left to state and local authorities and regulators who are best equipped to deal with them. In Connecticut, as an example, there is a significant historical record and basis for certain costs either being included or excluded for recovery from ratepayers, including cost issues of prudent investments and prudent management.

b) Reciprocity: Should Congress consider provisions barring access to markets in states which have adopted retail competition by generators in states which have not? Which interests would this affect, and how?

Our attorneys advise us that this issue is deeply rooted in issues of Constitutional Law. Any opinions we may have would not serve a useful purpose until those legal issues are fully framed.

c) *Local distribution companies (LDC):* Should Congress require unbundling of LDC services in order to subject them to competition?

No. Ownership and control of the metering and billing functions should remain with the distributing utility. Historically, distributing utilities have been and should continue to be responsible for reading and maintaining meters as well as for the billing functions associated with such meters. If ownership of meters is separated from the distributing utility, there can be important reliability and safety concerns which may not be met.